

REMARKS

Reconsideration of the above-identified application in view of the foregoing amendments and following remarks is respectfully requested.

A. Claim Status / Explanation of Amendments

Claims 1-5, 7-12, and 14-17 are pending and were rejected. By this paper, claims 1-2, 4, 8-9, 11, and 15 are amended while claims 3, 10, and 16-17 are canceled without prejudice or disclaimer. Applicant reserves the right to pursue canceled claims in a continuing application.

As to the merits, claims 1-3, 5, 8-10, 12, and 15-17 were rejected pursuant to 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,700,607 B1 to Misawa ("Misawa"). [8/30/07 Office Action, p. 4]. Claims 4, 7, 11, and 14 were rejected pursuant to 35 U.S.C. § 103(a) as allegedly being unpatentable over Misawa in view of Official Notice. [8/30/07 Office Action, p. 9]. The cancellation of claims 3, 10, and 16-17 renders the Section 102 rejection of these claims as moot.

Applicant has amended claim 1 such that the paragraphs beginning "an image display device..." and "a focus evaluating value obtaining device..." are deleted. Claim 1 is also amended to recite, *inter alia*, an "image display device displaying an image based on said image signal when said display device is in the image display ON state." Claim 1 is further amended to recite, *inter alia*, a "first control unit that adjusts a focus according to a focus evaluation value based on said image signal" and a "second control unit that changes reading manners of the image signal ... so that the image signal is read from a first image sensing area ... when ... said image display device is in the image display OFF state and the image signal is read from a second image sensing area ... when ... said image display device is in the image display ON state." Similar and

conforming amendments are made to independent claims 8 and 15 which are respectively directed to a method and control program for controlling the apparatus of claim 1.

Claim 2 is amended to recite the limitation wherein the second control unit "sweeps off the image signal in an entire image sensing area not including said first image sensing area at high speed when said display designating unit determines that said image display device is in the image display OFF state" while claim 4 is amended such that "evaluating" is changed to "evaluation" to correct for antecedent basis. Similar and conforming amendments are made to dependent claims 9 and 11. Support for the amendments to claims 1-2, 4, 8-9, 11, and 15 may be found throughout the application as originally filed including, for example, Fig. 4 and p. 22, ln. 3 to p. 25, ln. 6.

No new matter will be introduced into this application by entry of these amendments. Entry is respectfully requested.

B. Claims 1-2, 5, 8-9, 12, and 15 are Not Anticipated by Misawa

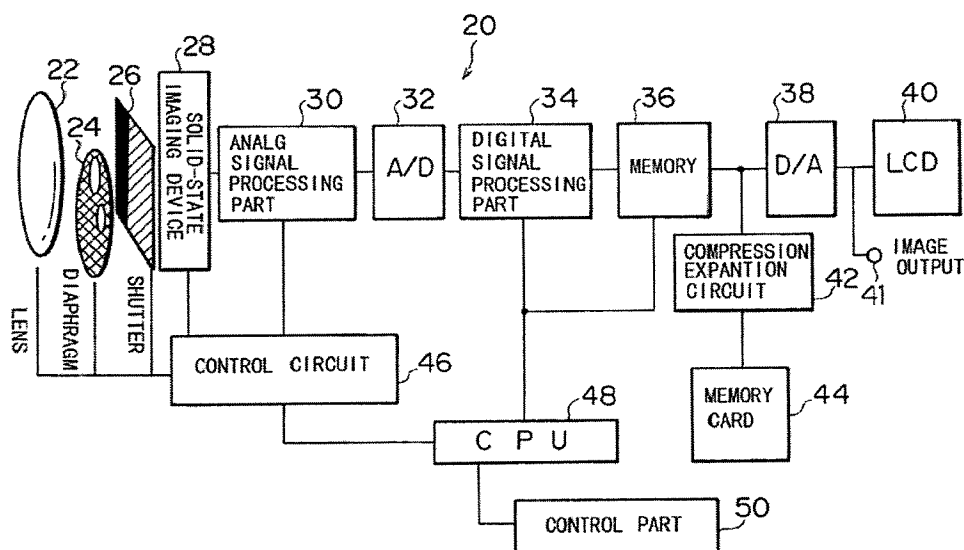
The rejection of claims 1-2, 5, 8-9, 12, and 15 as allegedly being anticipated by Misawa is respectfully traversed. As set forth in detail below, Misawa does not teach, disclose, or suggest each and every element of these claims. Accordingly, the Section 102 rejection should be withdrawn.

Applicant's claim 1, as amended, recites:

1. An image sensing apparatus, comprising:
 - an image sensor that outputs an image signal of a subject;
 - a display designating unit that determines whether an image display device is in an image display ON state, or said image display device is in an image display OFF state, said image display device displaying an image based on said image signal when said display device is in the image display ON state;
 - a first control unit that adjusts a focus according to a focus evaluation value based on said image signal, and

a second control unit that changes reading manners of the image signal from said image sensor so that the image signal is read from a first image sensing area including a focusing signed detecting area when said display designating unit determines that said image display device is in the image display OFF state and the image signal is read from a second image sensing area which is larger than said first image sensing area when said display designating unit determines that said image display device is in the image display ON state.

Misawa is directed to an image sensor driving method suitable for an electronic camera. [Misawa, Col. 1, lns. 7-12]. In one embodiment, as shown by Fig. 5 below, Misawa discloses a digital camera (20) comprised, *inter alia*, of a CPU (48), image sensor (28), LCD monitor (40), and video output terminal (41) to which an external monitor may be connected. [Misawa, Col. 5, lns. 50-60]. Misawa employs two modes of reading the image signal, namely a normal mode and a macro mode with the latter being operative when an external display device is attached to the video output terminal (41). Misawa further teaches that in the normal mode of operation the imaging device (28) is driven by reading signals from 1/4 or 1/8 of the photoelectric elements (i.e. pixels) whereas in the macro mode of operation signals are read from 1/2 or all of the photoelectric elements. [Misawa, Col. 9, lns. 23-35 and 53-57].



[Misawa, Fig. 5].

The Office Action contends that Misawa's CPU (48) switches between normal and macro modes of operation based on whether an external monitor is attached to the video output terminal (41) and thus "changes reading manners of the image signal" based on whether an "image display device is an image display ON state, or .. OFF state" as recited in Applicant's amended claim 1. [8/30/07 Office Action, p. 5]. However, Misawa's two reading modes merely involve changes in how many pixels are skipped between successive reads (e.g., the pixel skip-readout rate) as shown, for example, by Figs. 2 and 4 of Misawa. Applicant, on the other hand, changes reading manners such that the image signal is read from a "first image sensing area including a focusing signed detecting area when ... in the image display OFF state" and a "second image sensing area which is larger than said first image sensing area when ... in the image display ON state" as recited in amended claim 1. Thus, Misawa's reading modes do not change the image sensing area from which the image signal is read based upon the image display ON/OFF state as disclosed by Applicant.

Accordingly, Misawa fails to teach, disclose, or suggest a "second control unit that changes reading manners of the image signal ... so that the image signal is read from a first image sensing area including a focusing signed detecting area when ... said image display device is in the image display OFF state and the image signal is read from a second image sensing area which is larger than said first image sensing area when ... said image display device is in the image display ON state" as recited in Applicant's amended claim 1. Applicant respectfully submits that independent claim 1 is patentably distinct from Misawa for at least this reason. Independent claims 8 and 15 are method and control program claims, respectively, which are analogous to the apparatus of claim 1 and, hence, are asserted as patentable for at least similar reasons. By their very nature, each of the dependent claims must necessarily include the above aspects and thus

claims 2, 5, 9, and 12 are asserted to be in condition for allowance for at least similar reasons. Accordingly, the Section 102 rejection of claims 1-2, 5, 8-9, 12, and 15 should be withdrawn.

It is further respectfully noted that the dependent claims provide additional aspects that render those claims additionally and independently patentable over Misawa. For example, with respect to claims 2 and 9, the limitation wherein "said second control unit sweeps off the image signal in an entire image sensing area not including said first image sensing area at high speed when said display designating unit determines that said image display device is in the image display OFF state" is recited. In rejecting claims 2 and 9, the Office Action contends that Misawa discloses "reading manners [which] include to read said image signal from a portion of said image sensor ... and the portion includes a focusing signed detecting area" and refers to Col. 8, lns. 13-19 of Misawa in support of this contention. [8/30/07 Office Action, p. 6]. Applicant notes, however, that the quoted passage merely teaches, for example, that upon performing AE and AF in the normal image capturing mode, the imaging device (28) can be driven by extracting a central 1/2 of the photoelectric elements. Thus, Mitsawa does not change the image sensing area that is read based on an image display state as contended by the Office Action. Accordingly, for this separate and independent reason, claims 2 and 9 are further asserted to be patentable over Misawa and early, favorable action in that regard is respectfully requested.

C. Claim 4, 7, 11, and 14 are Patentable over Misawa in view of Official Notice

Applicant respectfully traverses the rejection of claims 4, 7, 11, and 14 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Misawa in view of Official Notice. For at least similar reasons as stated above and for the Official Notice failing to overcome the deficiencies of the primary reference, Applicant respectfully traverses the Section 103 rejection of claims 4, 7,

11, and 14. Applicant respectfully submits that all of the pending claims are now allowable for the above reasons and early, favorable action in that regard is requested.

Applicant has chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Likewise, Applicant has chosen not to swear behind the references cited by the Office Action, or to otherwise submit evidence to traverse the rejection at this time. Applicant, however, reserves the right, as provided by 37 C.F.R. §§ 1.131 and 1.132, to do so in the future as appropriate. Finally, Applicant has not specifically addressed the rejections of the dependent claims. Applicant respectfully submits that the independent claims, from which they depend, are in condition for allowance as set forth above. Accordingly, the dependent claims also are in condition for allowance. Applicant, however, reserves the right to address such rejections of the dependent claims in the future as appropriate.

CONCLUSION

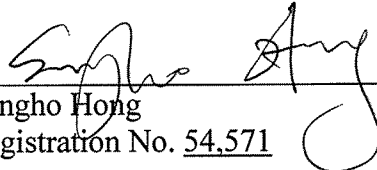
For the above-stated reasons, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is earnestly solicited. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 13-4500, ORDER NO. 1232-4714.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: November 29, 2007

By: _____


Sungho Hong
Registration No. 54,571

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile